

PRUDENTIAL II 1302
REASONS
Rich: FOR Martin
REPEALING
THE
PENAL LAWS
AGAINST
All Recufants,
And for a
General Toleration,

Penn'd by a Protestant Person of Quality.

Published by Authority.

L O N D O N,

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CONFIDENTIAL

REASONS

REPEALING

ACTS

OF THE

Parliament

of Great Britain

in the

Year

of the

of the

READER,

You will admire perhaps at first the Confidence of this Person, who never was of the Council, be sure, nor is of the Parliament, that he should make so bold as to endeavour to shew the Interests of All Parties, and ev'n those of the King and of the Country. But you will have cause to cease your Admiration, if you consider, that the Interests of the Parties do not lie so deep under ground as is thought; and that if Men do not see them, it is not because they Cannot, but because they Will not; not because the Object is Hid, but because their Eyes (with which they must see it) are mop't in Passions and Prejudices. The Author pretends to see no more, than every body else may,

A 2 provided,

To the Reader.

provided, that he will wipe his Eyes, and be as impartial and as unprejudic'd as He.

As for the King, whom God long preserve ; Thanks be to God, he has a clearer Prospect of His own and of His Kingdoms Interest, in the Matters debated, than Any His Royal Predecessors had ; and He pursues it too with that Conduct and that Vigor which corresponds with the Miracles that preserv'd the Crown for Him, and also Him, both for the Crown, and for a Glory greater than that of wearing Crowns, to wit, to be the Restorer of Religion to Liberty and Freedom of Exercise.

*Prudential Reasons for Repealing the
Penal Laws against All Recusants, and
for a General Toleration.*

I. **C**hristian Religion and Civil Government are things so different, as in their Originals, so in their Natures; and ordain'd for Ends so different; (the Former being Divine and Spiritual, and ordain'd to be a Means to Mens Eternal Felicity; the Latter, Human and Secular, and appointed for their Temporal Welfare): *that* in themselves, and absolutely taken, they are nothing a Kin, and of no Relation *one to another*. Wherefore Civil Government (as such) cannot be oblig'd to concern it self in the Business of Religion, or to Incorporate Any, any further than as Politic and Secular Respects do engage it, that is, any further than as a Concernment of Religion may become a matter of State, and be for the Quiet, Safety, Strength and Support, and so do's make for the Ends and the Interest of the Government.

Now it is for the Interest, Quiet, Strength and Safety of every Government to give as much Contentment, and to make it self as *ease* as is possible unto all its Subjects, but especially in matters of Conscience; which, as they have the greatest Ascendant over the Minds of Men, so the Gratifications and Displeasures that have reference to *these*, of all others do most deeply affect them. And therefore it is against the Interest, the Quiet, the Strength and the Safety of Government to espouse Religion (in any Mode thereof) so as to establish it by Law any further, or in any other manner than as may consist with the general liking, and give Content unto all in Reason; for Reason at last will Rule, and over-rule both Passions and Prejudices. State-Bigottry (in any Religion) cannot be for the Interest of Government.

2. But to circumscribe my self within a nearer compass. All the Sanguinary and Burthenfome Laws relating to Religion, that from time to time have been enacted by our English Parliaments, against either Popish or other Recusants; *They were all made in a Passion of State, and only to humour the Times, as might be prov'd by Induction of all the Particulars.* And therefore as things of *that* Production always have, so even these have something in them of Violent, Inequitable and Extravagant, and of unfit and inconvenient at least for times of Peace and Tranquility: So that to repeal them, must needs be an Act of Moderation, Clemency and Justice, and of Politic Prudence and Wisdom.

3. Besides, the Penal Laws did never answer the Ends and Designs for which they were intended; but instead of securing good Order, Quiet, Peace and Tranquility to the Government, they too often prov'd a matter of Embroylment and Disturbance unto it; and have been the Handles which upon all occasions, Ambitious, Factious, Discontented Men have taken hold of, and have used to wind about the People, and make a Property of them to serve their *ill* Designs and Intentions.

1. The Penal Laws never answered or effected their Ends.

Queen *Elizabeth* on several Occasions, in several Parliaments, gave Life and Birth to Laws of extream severity, not only against the Roman Catholic, but also the Puritan Recusant; but against both to little effect; for notwithstanding all that severity, Popery was not extirpated, and Nonconformity grew and spread; it is true, the less observedly, but not the less dangerously for that it grew in secret, and that it was not observed.

King *James* succeeding Queen *Elizabeth* would needs be her Successor as to her Methods of Prudence as well as to her Crown, and in the same Method was met with the same success: Papists were more sharpened, and Puritans spread more; the Severities of the Law increasing only the number of Enemies, without establishing the Quiet, Repose and Peace of the Government. When Laws are Enemies to any Men, to be sure, say they what they will, and swear what they will, those Men will be Enemies to the Laws. And the very Being of the Penal Laws without a perpetual Execution of them do's make Enemies. For Men will always hate what they always fear, and

the Laws (if in Being) are always feared, because if they *do* not strike always, yet they *may* strike; and no body knows how soon *they will*: Which minds me of the second Point.

2. That the Penal Laws have often ministred matter of Disturbance and Imbroylment to the Government; to evidence which we need not to go back to far remote and distant times, but may keep within our own Horizon and Ken, and yet have Examples enough, and plain enough.

When King *Charles the First*, for certain Reasons of State, had remitted the execution of the severity of the Laws against Roman Catholics, and for other Reasons permitted some severities to be used by the Clergy for the suppressing of Puritans; occasion is taken hence for making Complaints upon both Hands; to wit, of the Non-execution of the Laws against the Roman Catholics, and of a too severe Execution against Puritans. Popery (the Cry is) is favored, and True-Protestant Religion, under pretence of Puritanism and Non-Conformity, (is) discouraged and even undermin'd: At last out comes the *Popish Royal Favorite*, and on comes War and Confusion.

3. To come nearer yet; When *Charles the Second* after a long experience of the Unfitness and Inefficacy of forcible Courses for settling the Repose of State, (the which he had wisely observed) found Cause to emit his Gracious Declaration of Liberty and Indulgence, to quiet the Minds of his Subjects, that he might have Peace at home, while he was making War abroad: Presently the Alarm is sounded, the Church is in danger, an Inundation of *Fanatics* worse than that of the *Goths* and *Vandals*, is like to run over all, and *Curat Lex* is the word, and this too, by Men that would be thought to vauw themselves on the Doctrin of Non-resistance.

Again, when by Intercession of Parliament and from other Considerations, he was inducd to Revoke his Declaration (from which moment he might have dated the beginning of all the Stirs, and all the Imbroylments that followed) in a little Time, the Fanatics being sufficiently mortify'd, up goes another Cry (God wor) of the *Growth of Popery*, in which (without doubt) the Fanatics did heartily joyn, both out of a sense of Revenge, and from that of their Interest. After this came Plots upon Plots, and Difficulty upon Difficulty, to the certain Danger, and

and almost as certain Ruin and Destruction of the Government. Of such advantage are the Penal Laws to the Safety, Quiet, and Repose of the State. Indeed while these are in being, there can never want Pretexes, upon one hand or the other, *Quia moriendi*, to make Complaints of, as, either of too much severity, if they are executed, or else of too much remissness, if they are not. Away then with these two-handed Tools of Contention and Faction.

4. I may add, That Severities, especially in Matters of Religion, are so contrary to the Complexion and Temper of our Nation, which both by Nature and by the Frame of our Government, in the Fundamental Constitutions of it, are much more mild and gentle than most others, *That* the very Authors and Promoters of the sanguinary and burthenfom Laws, in a little time, and when the Heat was over, grew weary and remiss themselves in executing of them. Fuller tells us, in his *Ecclesiastical History*, cent. 16. "That when these Statutes (he speaks particularly of that in the Twenty third of *Elizabeth*, against Jesuits, &c.) were first in the State and Magisteriality thereof, they were severely put in practise on such Offenders as they first lighted on. But some years after, the Queen and her Judges grew Remiss in the Execution thereof; witness the only confining of many of them to *Witch Castle*. And in King *James's* Days, this Dormant Law against Jesuits only awaked some once in four or five years (to shew the World that it was not dead) and then fairly fell asleep again, being very sparingly put in execution, against some Notorious Offenders. Thus he.

5. And if we consider this Subject in a larger Circle, and speculate upon it exactly, the Prudentialness of what I have propos'd, and have hitherto argued, will appear the brighter. Opinions then, and Practices in matters of Religion are either Plausible and Popular, or of a nature not so apt to take with the People. If Opinions and Practices are not plausible and popular, but of a Nature unapt to take with the People, in that case there is no need of Laws to suppress them, because no danger of them, they will expire of themselves; Laws against them, will but give them Credit and Reputation, and perpetuate their Memory; to despise and neglect is to extinguish and

It is true, when Opinions and Practices are plausible and popular, are well nick'd, and are apt to infect, and take with the People, but yet have not as yet infected them and spread among them, all things being as yet still and quiet, in that Case the Quickest and Severest Remedies seem the *Best*, because they eradicate. And thus while the *Reformation* was circumscribed in the Breast of one only *Luther*, if Friar *Hogoftrate's* Counsel (indeed an *Achisophel's*) of applying Chains, and Fire, and Flame, as the only proper Remedy, had been follow'd, That Course 'tis very probable) would have for ever prevented it. But God had better things in Reserve. And this Method even Queen *Elizabeth* follow'd as to the *Dutch* Anabaptists that came over hither: She Burnt two, and Banish'd all the rest that would not Recant: Which Proceeding, according to the Rules of Policy, was certainly good; but how Equitable it was, and how Christian, I leave to others to judge.

But after that Opinions and Practices have gotten Roots in the Minds of Men, that they have spread among the People, and are entertain'd with Applause, so that there are some Persons who think it to be a Concern of Salvation to them to Propagate, and others that think it no less a Concern of theirs to Receive them; in this Case (and this is Ours) the Severity of Laws, if executed, (and Laws without Execution are Scarecrows, seen and despised) do's only hinder the Open Profession, but not the Belief and Secret Practice: may Repel the Humors, and make them eager and virulent, and consequently encrease the Danger; but do's not Expel or Alter them. Thus the Body Politic becomes replenish'd with Malignities, and then any jogging and stirring of State endangers it; whereof one day our neighbour Kingdom of *France* may have a dangerous Experience. And certainly even at this time some of our own Church, who lately proceeded to so great Extremities against Dissenters, and thought by that Proceeding to have got an absolute Victory, begin to fear it; and should His Majesty please to grant His Indulgence by Proclamation, and under the Seal, I believe they would Find it a great Truth, That Severity and Persecution may make Conformists, but not Converts: However the Observation is not new.

The burning of Men and Women like Torches in Queen Mary's Days, tho' it had this Effect, that it produc'd an universal external Conformity to the Roman-Catholic Rites, yet seeing those Fires did only heat the Humors of the Men, they did not burn without Illuminating their Minds; no sooner was Occasion presented, as, by the Descent of the Crown on Queen Elizabeth, it was not long after, but the Ineffectualness, Folly, and Weakness of that Proceeding appeared; for the People, no more than the Clergy (generally speaking) were now no longer what they seem'd before. Again, the Condemnation of *Udal*; and Execution of *Barrow* and others, (who were hang'd as Felons) for Non-conformity in Queen Elizabeth's Time, had no better Effect, as the Consequence shew'd; for notwithstanding that Severity, Puritanism grew in Her Time as Protestantism did in Queen Mary's, and possibly the faster for that Severity.

Of this King James the First was fully convinc'd (at last) by the burning of *Legate* and *Weighman* (for the Writ *de Heretico comburendo* has done jobs for others, more than once, as well as for Roman-Catholics) he finding by that experiment of Fire Ordeal, the truth of this Observation, That severe Executions in matters of Religion, even when the Opinions are but speculative and not apt to take, do ordinarily more hurt than good. The Observation *Puller* has made of the success of those Executions in King James's time, deserves that we should put our Finger upon it. "God may seem (says he in his *Ecclesiast. History Cent. 17. Sect. 4.*) well pleas'd with this seasonable severity, for the Fire thus kindled, quickly went out for want of Fewel, I mean, there was none ever after that avowed these Heretical Doctrines, only a Spanish *Avian*, who condemn'd to die, was notwithstanding suffered to linger out his life in *Newgate*, where he ended the same. Indeed such burning of Heretics much startled common People, giving all in pain, and prone to asperse Justice it self with Cruelty, because of the novelty and hideousness of the Punishment. And the Purblind Eyes of Vulgar Judgments looked only on what was next to them (the Suffering it self) which they beheld with compassion, not minding the demerit of the guilt which deserved the same. Besides such being unable to distinguish betwixt Constancy and Obstinacy, were ready to

"entertain

“ entertain good thoughts even of the Opinions of those Heretics, who sealed them so manfully with their Blood.
 “ Wherefore King James, *politically prefer'd*, that Heretics hereafter, tho' condemn'd, should silently and privately waste themselves away in the Prison, rather than to grace them and amuse others with the solemnity of a public Execution, which in Popular Judgment usurped the Honor of a Persecution. Thus he. But to return.

The only proper Method then, in *case* Religious Perswasions have taken Root, and are so largely diffus'd among the People that they cannot be eradicated but by Barbarous Cruelty, and with extream scandal, as by Massacres and Assassinations; I say, the only proper Method in this *Case* is that which is *Lenitive*, the method of Toleration and Indulgence, but with due Regulations. For in this Method; altho' Recusants are permitted to continue such still as to the Church, yet they cannot but become entirely the Friends of the State, which by giving them such Reasonable Satisfaction, do's as well deprive them of just occasions of complaint, as take away from the Multitude all occasions of Compassion and Pity. And in this state of things should any Recusants be still contriving and intriguing it will be manifest (to all) that it is not Conscience, but a Lust of Power and Rule that Acts them, the very suspicion of which will lose them the People; so that they may be punish'd by the Hand of Justice, not only without Murmur; but even with general Applause. Tho' many will hear them that say, *We preach our selves your Servants for Christs sake*, but few will indure such as shall say (but in effect) *We Preach our selves your Lords, and you our Servants, for our own sakes.*

It may be added, that Restraint doth whet the Appetite, and therefore that Indulgence and Liberty will abate it: Men will not care so much to hear Recusants, when they are not restrain'd from hearing them.

*Prudential Reasons for Repealing the
Penal Laws against the Roman-Catho-
lics particularly.*

1. **F**IRST, that his Majesty having profess'd himself of the Roman-Catholic Perswasion, it is but a just expectation, not only in those of his own Profession, but in all the World, that he should procure a Legal Freedom of Exercise for that Religion; which should he be unable to effect with the Consent of his People in Parliament, it would much obscure and eclipse the Glory of his Character abroad, it being impossible that he should appear as a King of Great Figure to the World abroad, if he shall appear to make (as then he will) but a little one at home: Whereas it is for the Interest and Safety, as well as for the Honor of the Kingdom, that the King should make as Great, and as Illustrious a Figure abroad as is possible, seeing the Strength and Power of the Kingdom (the Reputation of which is its Safety) appears not to the World but in the Greatness of the King, and in His Power with His People.

2. A Continuation of the Penal Laws against Roman-Catholics, when the King professes Himself to be One, must needs have a particular Ill Reflection upon Him even in other Respects. For who can think or say of Catholics, that they are so Criminal and Ill a sort of Men, and of Principles so very Bad, that the utmost Severity against them is but little enough; but withal he must abate of Regard and Veneration for the King, who acknowledges Himself a Roman-Catholic? which how it can consist with that Proportion of Duty, Love, and Allegiance that we owe unto Him as our Sovereign Lord, is too hard a Point for me to conceive.

3. I am very confident, that many Examples (if any) can't be given in All History, of Governments in which the Prince was of a Religion, the Exercise whereof Himself did punish in His Subjects, by His Laws and Judges; and indeed it cannot be

but a Solecism in State to admit it. For, that a King should punish in others, what yet He publicly avows and owns and approves in Himself, is very odd, and a Self-condemnation. I know the Case of *Sigismund* the Third, King of *Poland* and King of *Sweden*; but I suppose it will not be urg'd as an Instance against me.

*Prudential Reasons for Tolerating other
Recusants, as well as, and together
with, the Roman-Catholics.*

1. **N**ot to give a Toleration and Indulgence unto Protestant Recusants, when it is given to *Roman-Catholics* (if at any time it shall be given), would make the Toleration of These, how Just soever, to become Invidious, and a Subject of Clamor and general Scandal, and so a Matter of Disquiet and Trouble to the Government.

2. Ay! And the Roman-Catholics cannot hope to hold and enjoy a Toleration that should be giv'n them by Act of Parliament, if other Recusants be not also joyn'd with them therein, longer than they may be sure of a Toleration without such an Act, only by the Royal Prerogative and Clemency: Whereas if the Toleration is General, and All Recusants, as well the Protestant as Roman-Catholic, *equally* comprehended in the Grant thereof, in one Act, and upon one Bottom, a Consideration of the Quality, the Number, and the Interests of the Parties so joyn'd together in the Liberty, will secure the Possession of it in Future: For, then, it will not be Wisdom to go about to disturb it.

3. Trade is the Interest of *England*, and Liberty of Conscience the Interest of Trade; it being beyond Dispute to all considering Men, that the Body of the Industrious Trading Part of the Nation are either themselves Dissenters, or Favourers
of

of those that are (such.) And it is as evident, that Trade, which, *before*, lay ev'n gasping for Life, since His Majesties Gracious Intentions are known to lean towards Liberty of Conscience, and that He has *Extended* His Dispensations from the Penal Laws in Matters of Religion, is Recover'd to a wonder, and grown Brisk and Quick, and that too so much to *general* satisfaction, that we hear no more Now, as *Before*, the Idle Stories of Prophecies, Prodigies, Complaints, and Murmurs, (those certain Symptoms of a Diseas'd and Crazy State) but All is Quiet and Still.

4. It is for the Interest of those that do Profess themselves the true Sons of the *Church of England* as by Law establish'd, if really they are Lovers of the Reformation, more than of their Passions and Humors, that All Recusants, as well the Protestant as the Roman-Catholic, should be *Equal* Sharers in the Grant of Liberty, if any is made. For seeing it is impossible that these two should agree but in things in which their Interest joyns them, and as impossible that it should be the Interest of either one of these (any more than it can be the Kingdoms) to suffer the other to get uppermost, one of them will always Ballance the other, and consequently both must be contented with Liberty, without aspiring to Power and Rule. And thus the Church will always remain undisturbed as well as the State.

5. But if the *Church of England* will have security in the Possession of the Establishment they have, or may have, by Law, upon their own Bottom, without the Assistance of *Ballancing* and Policy to support it, they must resolve to *enlarge* that Bottom, (which indeed is their true Interest) by parting with things to them indifferent, but not indifferent to others. For if some Men resolve to be always stiff and inflexible, and not to condescend in the least to any Abatements, for the Love of Peace and of Unity, one may adventure to foretel, without pretending to Prophecy, that *sooner* or later, they will find themselves in his Folly, who rather than cast the worst of the Loading Over-board to save the Ship, will sink with it.

6. To conclude, It is certainly for the Interest of the Royal Family, as well as for the Kingdoms Interest, that such a Settlement should be well deliberated, and be surely establish'd, as to the Business of Religion; that whether the Crown here-
after

after shall descend on the Head of a Roman-Catholic, or of a Protestant, (for it may again (as has already) sometimes descend upon the one, and sometimes upon the other) that That Descent should make no Change and Alteration in the Law, or the State of Things in the Government. Preventive Wisdom is the best Wisdom; and such a Settlement will Prevent Convulsions and Difficulties, which (else) on every Demise of the Crown, the State will be subject unto.

But such a Settlement, I doubt, can never be effected without Resolving that the Religion already Establish'd, shall be the Religion of the State; and that those who dissent from it, shall yet have Toleration and Indulgence, but under due Regulations and Qualifications. For my own part, I admire the World is so fond of *Uniformity* in the External of Religion, that in most things else prefers *Convenience* before *It*. The World it self is Elemented of Contraries, diversly proportion'd, and the Variety in it, is, of the Being, and for the Beauty and the Ornament of it.

F I N I S.
